

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.06.2010

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. NO.28967 OF 2007 AND

M.P.NO.1 OF 2007

The Nonsuch Tea Estates Ltd.,

Rep.by its Manager

Ritz Building

Coonoor □ 643 101

Nilgris.

.. Petitioner

Versus

1.The State Chief Information Commissioner

The Public Information Officer &

Personal Assistant (General)

State Information Commission

No.89, Dr.Alagappa Road

**Purasawalkam
Chennai □ 600 084.**

**2.The District Collector
of the Nilgiris
Collector's Office
Udhagamandalam
Nilgiris District.**

**3.The District Revenue Officer
Collector's Office**

Udhagamandalam □ 643 001.

.. Respondents

**PRAYER : Petition filed Under Article 226 of the Constitution of India
praying to issue a Writ of certiorari, calling for the records of the 2nd
respondent herein bearing Rc.C3/33893/2007 dated 12.07.2007 and
quash the same.**

**For Petitioner : M/s.Asha for
M/s.Sarvabhauman Associates**

For Respondent-1 : M/s.G.R.Associates

For Respondents-2&3 : Mr.T.Sreenivasan

Additional Government Pleader

* * * * *

O R D E R

The petitioner herein has filed the present writ petition seeking to set aside the order of the second respondent whereby the request of the petitioner for grant of copy of the complaint given by one Muniyandi was rejected on the ground that the petitioner is not entitled to get the same as per the provision under Section 8 (1) (G) of the Right to Information Act.

2.It is seen from the affidavit filed in support of the writ petition that there are some disputes between the petitioner and one Muniyandi. It is also seen that the said Muniyandi lodged a complaint against the petitioner which was closed by the jurisdictional police. The Criminal Original Petition filed by the said Muniyandi in Crl.O.P.No.8188 of 2006 was also dismissed by this Court.

3.The said Muniyandi has said to have given a complaint to the Chief Minister's Cell and in pursuant to the said direction issued by the Chief Minister's Cell, an enquiry is sought to be conducted against the petitioner. The petitioner was called for the enquiry and as per the affidavit filed in support of the writ petition the petitioner asked to give compensation to the said Muniyandi. Therefore the petitioner made a representation dated 04.04.2007 seeking a copy of the said complaint given by the Muniyandi. However without giving a copy the petitioner was directed to appear before the first respondent. Thereafter in and by the letter dated 12.07.2007, the first respondent has rejected the request of the petitioner, challenging the said order the present writ petition has been filed.

4.Heard M/s.Asha, learned counsel appearing for the petitioner and M/s.G.R.Associates, learned counsel appearing for the first respondent as well as Mr.T.Sreenivasan, the learned Additional Government Pleader appearing for the respondents 2 and 3.

5.The learned Additional Government Pleader submits that he has got no instructions and no counter affidavit has been filed.

6. Admittedly there are some disputes between the petitioner on the one hand and the said Muniyandi on the other hand. The said Muniyandi has given a complaint against the petitioner to the Hon'ble Chief Minister's Cell which was forwarded to the second respondent. In pursuant to the said complaint, the second respondent has initiated action by calling the petitioner for enquiry. It is also no doubt true that the complaint was given by the said Muniyandi. The petitioner gave a representation seeking a copy of the said complaint so as to effectively take part in the enquiry. The said request has been rejected by the second respondent on the ground that as per Section 8 (1) (G) of the Right to Information Act, 2005 the request of the petitioner cannot be complied with.

7. This Court finds that the order passed by the second respondent is liable to be set aside, since the said order itself indicates the author of the complaint. Further when an enquiry is conducted a party to the enquiry against whom the complaint is given is entitled to know the basis of the said enquiry. It is not the case of the second respondent that the said Muniyandi has alleged any threat to his life if the complaint made by him is given to the petitioner.

8. As observed earlier the order impugned itself would clearly indicate the author of the complaint. When that is the position the reason assigned by the second respondent that by giving a copy of the said complaint the said Muniyandi would be very much affected cannot be accepted. If the second respondent apprehends any threat to the life of the said Muniyandi he ought not to have mentioned his name.

9. There are some disputes between the petitioner and the said Muniyandi. The petitioner has given a complaint against the said Muniyandi and he has also given a complaint against the petitioner. The complaint by Muniyandi has been closed and his further petition filed before this Court for registering the complaint was also rejected by this Court. When those complaints have been made public there is absolutely no reason for rejecting the request of the petitioner to furnish a copy of the complaint given by the said Muniyandi.

10. This Court also finds that there is no useful purpose that would be served by deriving the petitioner to file an appeal. The enquiry has been pending from the year 2007 onwards. Further the question of alternative remedy cannot be raised at the time of taking the writ petition for final disposal.

11. Therefore on a consideration of the above said facts and on a reading of Section 8 (1) (G) of the Right to Information Act, 2005, this Court is of the opinion that the order impugned will have to be set aside and accordingly, the order impugned is set aside and the second respondent is directed to furnish a copy of the complaint given by the said Muniyandi, within a period of four (4) weeks, from the date of receipt of a copy of this order and thereafter the second respondent further directed to conclude the enquiry, within a period of eight (8) weeks, after the receipt of the said complaint by the petitioner.

12. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

sri

To

1. The State Chief Information Commissioner

The Public Information Officer &

Personal Assistant (General)

State Information Commission

No.89, Dr. Alagappa Road

Purasawalkam

Chennai - 600 084.

2. The District Collector

of the Nilgiris

Collector's Office

Udhagamandalam

Nilgiris District.

3.The District Revenue Officer

Collector's Office

Udhagamandalam 643 001